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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/798,486	03/11/2004	Gary L. Cantrell	1159.1 US	6296
24289	7590	10/09/2007		
Mallinckrodt Inc. 675 McDonnell Boulevard HAZELWOOD, MO 63042			EXAMINER SCHLIENTZ, LEAH H	
			ART UNIT	PAPER NUMBER
			1618	
			MAIL DATE	DELIVERY MODE
			10/09/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

Application No.

10/798,486

Applicant(s)

CANTRELL, GARY L.

Examiner

Leah Schlientz

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 11 July 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1,3-7 and 9-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 3-7 and 9-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application
- ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Acknowledgement of Receipt***

Applicant's Response, filed 7/17/2007, in reply to the Office Action mailed 12/15/2006, is acknowledged and has been entered. Claims 1, 3 – 7 and 9 – 13 have been amended. Claims 2, 8 and 14 – 20 have been cancelled. Claims 1, 3 – 7 and 9 – 13 are pending and are examined herein on the merits for patentability.

### ***Response to Arguments***

Applicant's arguments with respect to the rejection of claims 1 and 7 under 35 U.S.C. 112, first paragraph have been fully considered and are persuasive. The rejection has been withdrawn as being overcome by amendment.

Applicant's arguments with respect to the rejection of claims 1 and 7 under 35 U.S.C. 102(b) as being anticipated by each of Unger, Klaveness, Rasor and Church have been fully considered and are persuasive. The rejections have been withdrawn as being overcome by amendment.

Applicant's arguments with respect to the rejection of claims 1 – 13 under 35 U.S.C. 103(a) as being obvious over Unger or Klaveness have been fully considered but they are not persuasive for reasons set forth hereinbelow.

***Claim Rejections - 35 USC § 103***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1, 3 – 7 and 9 – 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Unger (5,585,112) or Klaveness (5,536,490), for reasons set forth in the Office Action mailed 12/15/2006.

Applicant argues on page 5 of the Response that “the rejection is moot with respect to canceled claims 2 and 8. None of claims 1, 3 – 7, or 9 – 13 teach or suggest Applicant’s recited shell where each polar head group is linked to a straight-chain hydrophobic group selected as having the recited chain lengths.” Applicant further asserts that “neither Unger or Klaveness render claims 1, 3 – 7 or 9 – 13 obvious.”

This is found non-persuasive because, claim 1 as amended now recites the limitations of previously rejected claim 2 into claim 1. However, claim 2 and dependent claims therefrom were rejected for reasons set forth in the Office Action. For example, Unger teaches combinations of all taught shell materials in columns 20 - 22 and column 29, lines 47+) and Klaveness teaches combinations of shell materials (see column 2). Applicant's arguments amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references.

***Conclusion***

No claims are allowed at this time.

Although Applicant's arguments as set forth in the aforementioned Response have been fully considered, they are deemed unpersuasive. Accordingly, THIS ACTION IS MADE FINAL. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

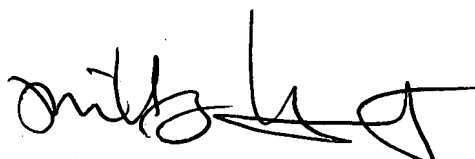
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Leah Schlientz whose telephone number is 571-272-9928. The examiner can normally be reached on Monday - Friday 8 AM - 5 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Hartley can be reached on 571-272-0616. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

LHS



MICHAEL G. HARTLEY  
SUPERVISORY PATENT EXAMINER